

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI

UNITED STATES OF AMERICA,

Plaintiff,

v.

CASE NO.: 05-cv-00907-ODS

BABY-TENDA CORPORATION,

Defendant.

COMPLAINT FOR INJUNCTION

Plaintiff, the United States of America, by its undersigned attorneys, for its complaint alleges that:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1337, and 1345.
2. Venue in the Western District of Missouri is proper under 28 U.S.C. § 1391(b) and (c).

NATURE OF THE CLAIM

3. Plaintiff brings this action to prevent continued misappropriation of government agency names and logos.

DEFENDANTS

4. Defendant Baby-Tenda Corporation (“Baby-Tenda”) is a corporation organized and existing under the laws of Missouri, located at 123 South Belmont Blvd., Kansas City,

Missouri, 64123. Defendant manufactures children's products, such as cribs and combination high chair/tables, which are shipped and sold through interstate commerce.

5. Baby-Tenda's products are marketed, at least in part, through a nationwide network of distributors who resell the furniture directly to consumers. Baby-Tenda distributors hold "safety seminars" around the country to which they invite new parents and couples expecting children. These seminars are actually sales presentations for Baby-Tenda products.

MISAPPROPRIATION OF GOVERNMENT AGENCY NAMES AND LOGOS

6. At least some Baby-Tenda distributors advertise their "safety seminars" using invitations and other materials that display the names or logos of the U.S. Consumer Product Safety Commission ("CPSC") and/or the National Highway Traffic Safety Administration ("NHTSA") in such a way as to falsely imply that these government agencies sponsor or co-sponsor the seminars.

7. Contrary to these assertions by Baby-Tenda distributors, the CPSC and NHTSA are in no way connected with the seminars. These government agencies have never sponsored any Baby-Tenda "safety seminar" or sales presentation.

8. The false suggestion of CPSC or NHTSA sponsorship or product approval and the misappropriation of government agency names and logos by Baby-Tenda distributors are fraudulent and deceptive sales practices designed to boost attendance at Baby-Tenda presentations through false pretenses. Such conduct also violates federal criminal statutes such as 18 U.S.C. § 506 (outlawing the fraudulent use of government agency seals).

9. The government previously contacted Baby-Tenda regarding the misappropriation of government agency names and logos by its distributors. In a letter dated December 8, 1995,

the Department of Justice wrote David Jungerman, the President of Baby-Tenda, regarding the deceptive practices described above and requested a written response describing what corrective action Baby-Tenda planned to take. A Baby-Tenda distributor responded with a letter stating that he would remove the CPSC logo from his materials.

10. Despite the government's prior notice to Baby-Tenda regarding this type of misappropriation by its distributors, the government recently learned that Baby-Tenda distributors in multiple states continue to misappropriate agency names and logos in the manner described above.

INJUNCTION

11. Based on Defendant's past and present course of conduct, there is a substantial likelihood that, unless restrained by order of this Court, Defendant's distributors will continue to misappropriate government agency names and logos.

PRAYER

WHEREFORE, plaintiff respectfully requests that this Court:

12. Permanently restrain and enjoin Defendant, and each and all of its officers, agents, employees, attorneys, successors and assigns, and those persons in active concert or participation with them, from misappropriating government agency names and logos;

13. Require Defendant to obtain written assurance from its current and future distributors that they will not misappropriate government agency names and logos;

14. Require Defendant to periodically obtain copies of the sales materials used by its distributors and to take appropriate action should it discover misappropriation of government agency names and logos; and

15. Grant Plaintiff judgment for its costs and such other and further relief as it deems necessary and proper.

DATED: September 29, 2005.

Respectfully submitted,

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